

Congress of the United States
House of Representatives
Washington, DC 20515-1402

March 3, 2020

The Honorable Wilbur Ross
Secretary
Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Dear Secretary Ross,

I write today to voice concerns regarding the recent expansion of tariffs imposed on steel and aluminum under Section 232 of the Trade Expansion Act of 1962 to include certain derivative articles. As you well know, these new tariffs were announced in a January 24, 2020 Presidential Proclamation¹ and took effect on February 8, 2020.

A sudden announcement on a Friday evening is not befitting such a dramatic paradigm shift from tariffs only on raw materials to now include downstream products as well. Even more concerning, there remains a great deal of uncertainty surrounding the new tariffs more than a month after they were announced. As such, I am requesting a written response to the following questions within three weeks of the receipt of this letter:

1. In light of a recent Court of International Trade decision² that appears to limit the ability to expand or modify actions under Section 232 absent a new investigation, please explain why a new investigation is unnecessary before marking this change in product scope.
2. How did the Department decide which derivative articles to include in the steel³ and aluminum⁴ annexes?
 - a. Were products included in the annexes based on a Department internal analysis, a petition from one or more domestic producers, or some other avenue?
 - i. If it was an internal analysis, what outreach was conducted to domestic producers to ensure that such tariffs would not disrupt their businesses?
 - ii. If it was a petition, please provide a copy of the petition, with redactions as necessary to protect privacy and confidential business information.

¹ <https://www.whitehouse.gov/presidential-actions/proclamation-adjusting-imports-derivative-aluminum-articles-derivative-steel-articles-united-states/>

² <https://www.cit.uscourts.gov/sites/cit/files/19-142.pdf>

³ <https://www.bis.doc.gov/index.php/documents/section-232-investigations/2520-annex-ii-derivatives-of-steel-articles/file>

⁴ <https://www.bis.doc.gov/index.php/documents/section-232-investigations/2521-annex-i-derivatives-of-aluminum-articles/file>

- iii. If it was a petition, was any opportunity afforded for other interested parties to support or oppose the product's inclusion in the annex?
 - iv. If it was a petition, was communication with the petitioners documented, particularly in light of the Office of Inspector General's October 28, 2019 Management Alert⁵ pertaining to ex parte communications in the steel and aluminum product exclusion processes?
 - v. If it was another avenue, please describe the process.
- b. Is the Department planning future additions to either annex? If so, when and how often will additions be made, and how will you ensure that interested parties are able to share their views on the merit of any such additions and how they might threaten or aid the national security of the United States?
3. The Department has promised to "conduct semi-annual reviews of the impacts of the steel and aluminum tariffs, including on downstream sectors."⁶
- a. Please provide a copy of the Department's most recent report, with redactions as necessary to protect privacy and confidential business information.
 - b. How many such reviews have been completed since the steel and aluminum tariffs took effect in March 2018?
 - c. Was the decision to expand the tariffs to include derivative articles a result of one of these reports?
4. One of the Department's stated reasons for the steel and aluminum tariffs is Chinese overcapacity in these sectors.⁷ Please explain how the expansion of the tariffs to derivative articles will address Chinese overcapacity.
5. One of the Department's stated goals for the steel and aluminum tariffs is for our domestic industry's capacity utilization to reach 80%.⁸ Please explain how the expansion of the tariffs to derivative articles will increase capacity utilization.
6. The proclamation noted the potential for relief through an exclusion process.
- a. Will this exclusion process occur through the Department's Section 232 Portal?
 - i. Assuming it is taking place through the Portal, when will the Department begin accepting exclusion requests for derivative articles? As of the date of sending, it does not appear that any exclusion requests concerning these new tariffs have been posted.
 - ii. If the Department did not begin accepting derivative exclusion requests until after the tariffs took effect, will it allow refunds on tariffs paid back to the date of the imposition of the tariffs for successful requests to account for the gap?

⁵ <https://www.oig.doc.gov/OIGPublications/OIG-20-003-M.pdf>

⁶ <https://docs.house.gov/meetings/WM/WM04/20180724/108591/HHRG-115-WM04-Transcript-20180724.pdf>

⁷ https://www.cleveland.com/opinion/2018/07/revitalizing_the_us_steel_and.html

⁸ <https://www.reuters.com/article/us-usa-trade-steel/u-s-commerce-department-proposes-hefty-import-curbs-on-steel-aluminum-idUSKCN1G01QB>

- b. Please provide the estimated number of exclusions the Department anticipates it will receive for derivative steel and aluminum products.
- c. The recent budget request for the Department's International Trade Administration (ITA)⁹ noted that under current exclusion request volumes, "without the continued support of support contractors, ITA will be unable to keep pace with the workload and processing" of requests. Is the Department confident it has adequate staff to handle even more exclusion requests as a result of the expansion into derivative products?

As always, I stand ready to work with you to address unfair trade practices and overcapacity. However, we also must ensure that any tariffs or other actions are targeted correctly and based on rigorous analysis that includes a transparent opportunity for input from all stakeholders so as to minimize the effects on domestic manufacturers. Thank you for your prompt attention.

Sincerely,

A handwritten signature in blue ink that reads "Jackie Walorski". The signature is written in a cursive, flowing style.

JACKIE WALORSKI
Member of Congress

⁹ https://www.commerce.gov/sites/default/files/2020-02/fy2021_ita_congressional_budget_justification.pdf